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Group-Washington

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

October 20, 1994

EX PARTE

William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: *CC Docket No. 94-1, Price Cap Performance Review for Local Exchange Carriers*

Today, Nancy Lubamersky, Jon Boisseau, and Don Brown, all of Pacific Bell, and I met with Jim Olsen and George Ford of the Competition Division of the Common Carrier Bureau to discuss the above-referenced docket. Information discussed during this meeting is attached. Please associate this material with this proceeding.

We are submitting two copies of this notice in accordance with Section 1.1206(a)(1) of the Commission's Rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

J. A. Goddard

Attachments

cc (w/o Attachments): Jim Olsen
George Ford

No. of Copies rec'd 0+1
List A B C D E

Competitive Markets and the Need for Adaptive Regulation

CC Docket 94-1

October 20, 1994

Pacific Bell

Jon Boisseau
Don Brown
Nancy Lubamersky

Introduction

- California is many markets, not one
- Demand differs widely by customer and geography
- Competition exists in dense, urban markets, where demand is strong and is highly concentrated
- Adaptive regulation will provide maximum benefits to consumers

Market Power

- Purpose of controlling market power is to prevent **high**, not **low** prices
- LEC prices have upper limit
- Focus on market power - the ability of LECs to raise prices above the competitive level - not market share

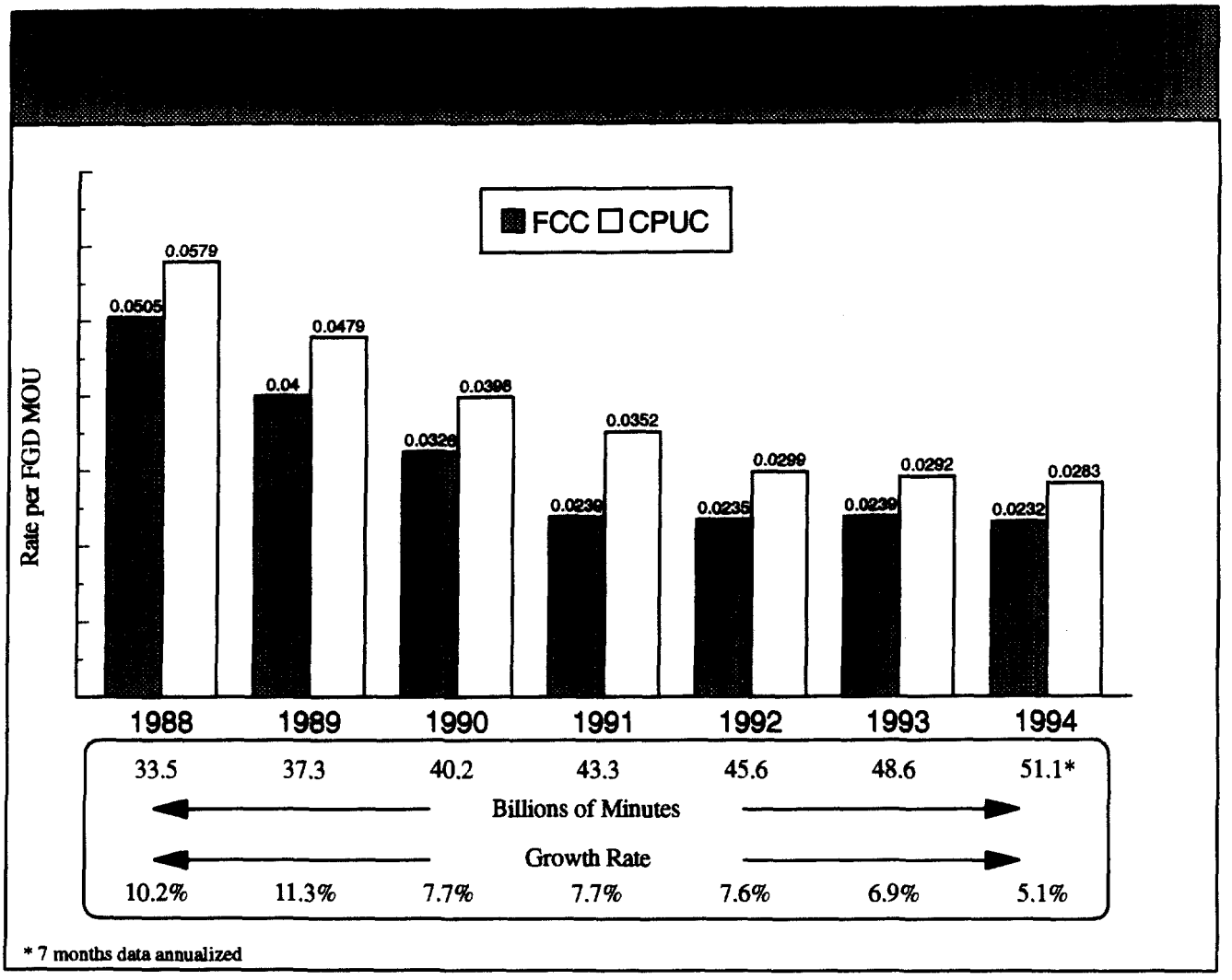
Market Share

- Market share has relevance only if it allows LECs to raise prices above competitive levels

- US Postal Service has a majority market share
  - ✓ 100% of the market in early years
  - ✓ telegraph, telephone,
  - ✓ Competitive Mail Providers (UPS, and later Federal Express, Airborne, et al.)
  - ✓ Facsimile, e-mail, other data communications

- Postal Service projects $2.4 billion loss this year
- No practical way to count facsimile, e-mail, and FedEx - no practical way to count private, IEC self supply, CAP, and wireless for market share analysis

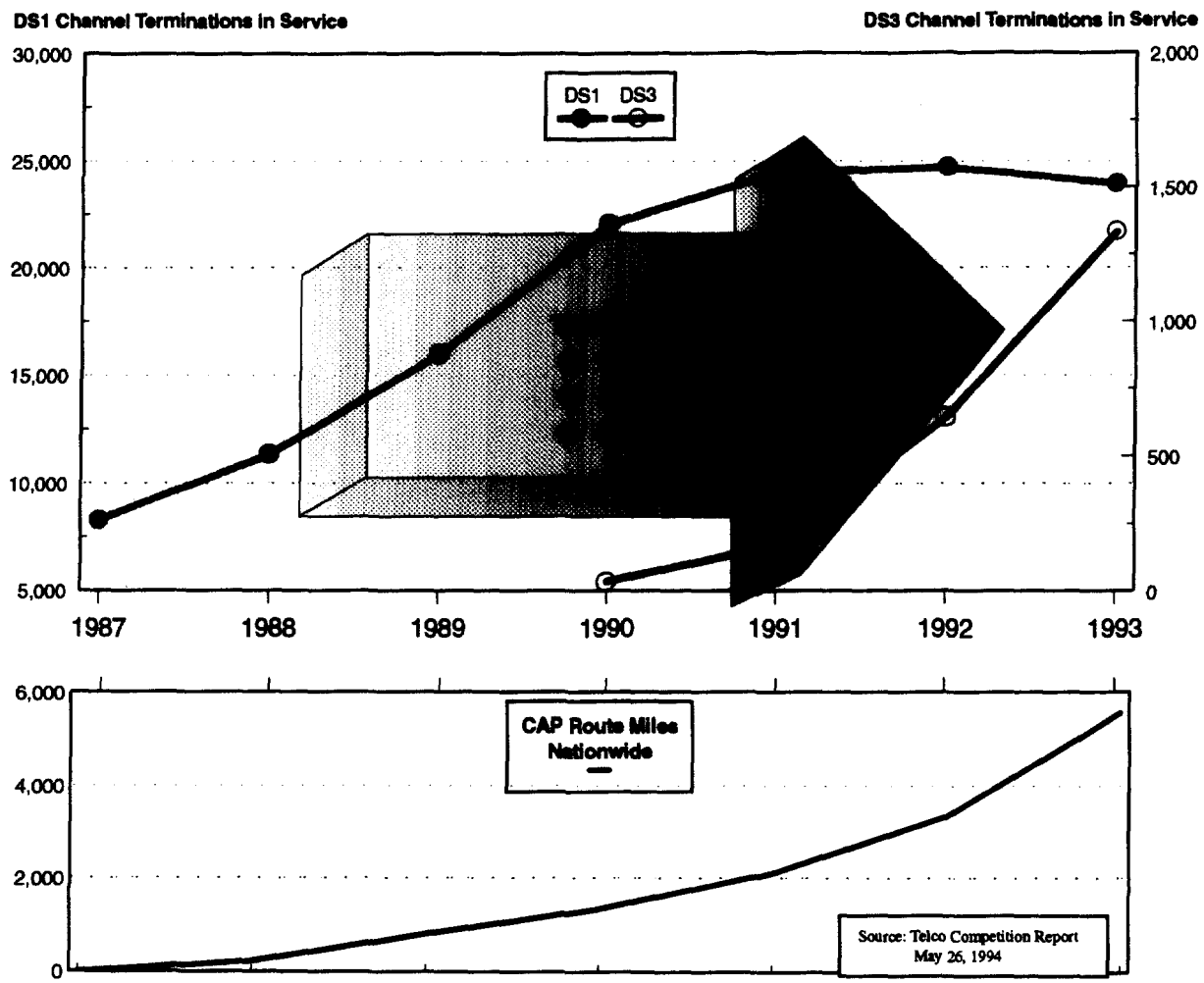
An Overview of the California Market



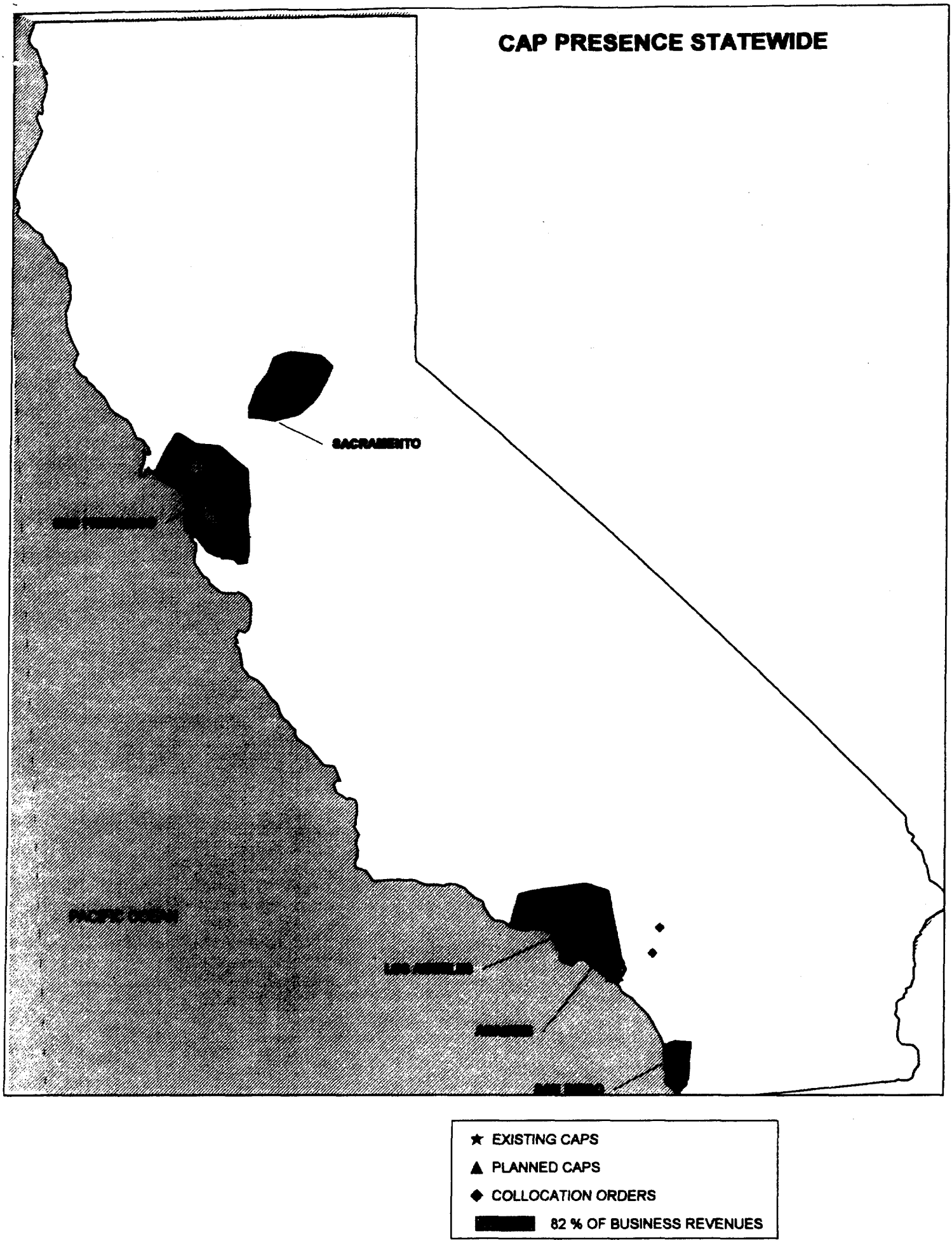
In California:

- *1% of the land area produces 49% of the business calling revenues*
- *Half of the business lines are in 10% of the wire centers*
- *One third of all interstate access minutes come from 8% of the wire centers*
- *90% of interstate HICAP circuits are in 12% of the wire centers*
- *As of September we have received orders or bona fide requests for collocation in 47 wire centers*
- *The four largest metro areas, Los Angeles, San Francisco, San Diego, and Sacramento account for 82% of Pacific's business revenues.*
- *California is served by 163 IECs - 90 serve any part of only 3 or fewer LATAs*

An Overview of the California Market



- *Pacific Bell has the lowest switched access and "off the shelf" HICAP rate among the LECs*
- *Over the past two years we have experienced negative growth in DS1 equivalents in our top offices*
- *Nationwide, CAPs' revenues grew 43% in 1993*
- *Pacific Bell serves 69% of the HICAP market in downtown Los Angeles and 75% in downtown San Francisco*
- *Symbiotic relationship between IECs and CAPs - the majority of CAP revenue is from POP to POP and end user to POP connections*
- *Teleport/TCG (several locations) and US West/Time Warner (San Diego) partnerships indicative of the synergy developing in the industry*
- *Cellular, PCS positioned to compete with LEC industry for access*


CAP PRESENCE STATEWIDE
SACRAMENTO
EXISTING CAPS
PLANNED CAPS
COLLOCATION ORDERS
82 % OF BUSINESS REVENUES

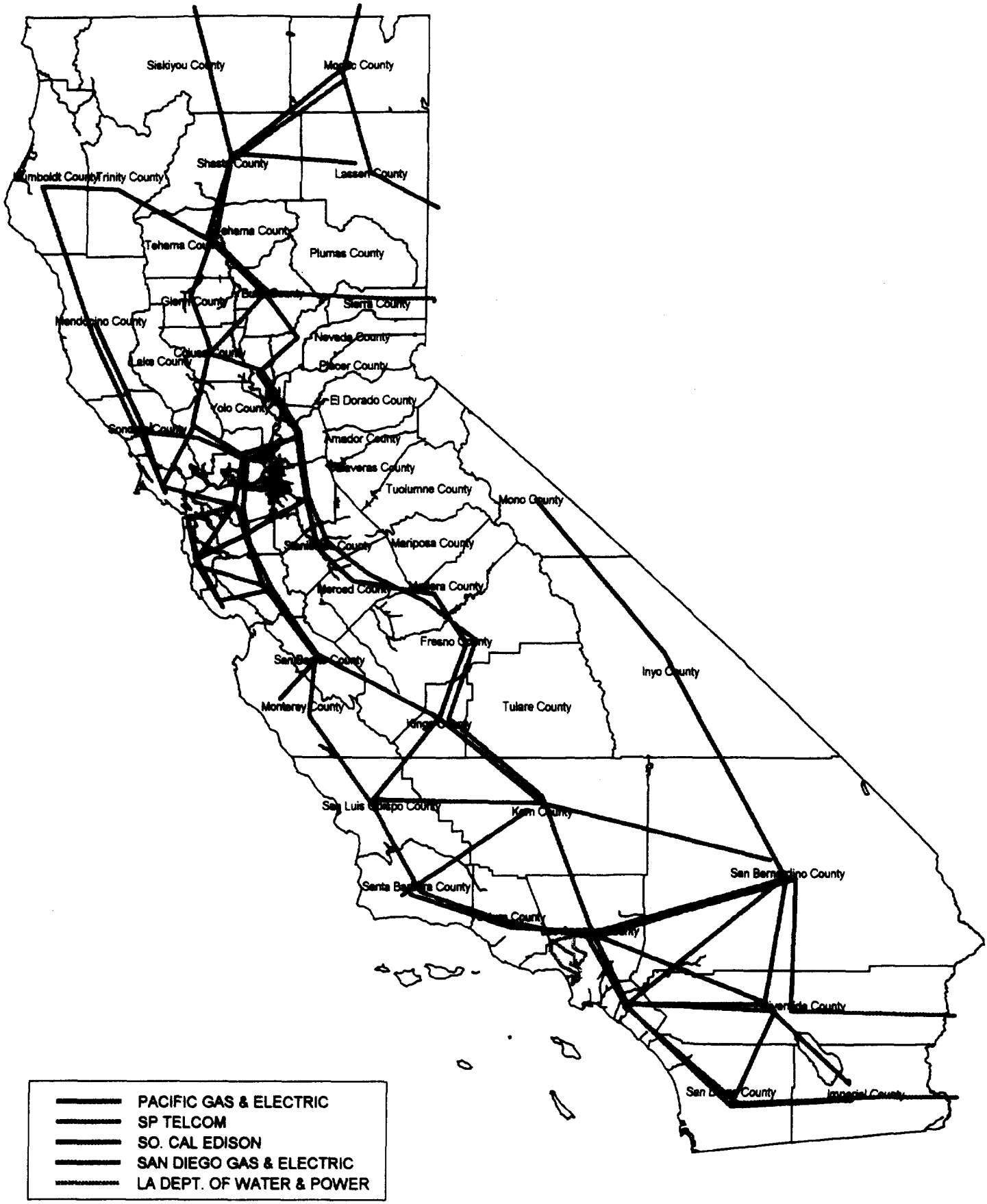
Competitive Access Providers in California

	City	MFS	Teleport	ICG	ELI	Linkatel	Fiberlink
Existing	Anaheim		X				
	Bel Air	X					
	Beverly Hills	X	X				
	Burbank	X	X				
	Century City	X	X				
	Compton		X				
	Culver City		X	X			
	East Los Angeles			X			
	El Monte		X				
	El Segundo	X	X				
	Fremont		X				
	Foster City	X	X				
	Gardena	X	X				
	Glendale		X	X			
	Hollywood	X	X				
	LA Airport	X	X	X			
	Lakewood					X	
	Lancaster			X			
	Lodi			X			
	Los Angeles	X	X	X			
	Kearney Mesa	X	X			X	
	La Jolla		X			X	
	Mission Valley	X	X			X	
	Milpitas		X	X			
	Oakland		X	X			
	Rancho Cordova			X			
	Sacramento						X
	San Bernadino			X			
	San Bruno	X	X				
	San Mateo	X	X				
	San Diego				X	X	
	San Francisco	X	X	X			
	San Jose		X				
	Santa Clara	X	X	X			X
	Sherman Oaks	X	X				
	Van Nuys		X				
	Woodland Hills		X				

Planned	Burlingame	X					
	Concord						X
	Cupertino	X					
	Cypress					X	
	Lafayette		X				
	La Jolla		X			X	
	Menlo Park	X					
	Millbrae	X					
	Mountain View	X					
	Newport Beach					X	
	Palo Alto	X	X				
	Pleasanton		X				
	Redwood City	X					
	San Carlos	X					
	Santa Ana					X	
	San Diego				X		
	Santa Monica		X				

*Source: **USTA Reply: FCC Price CAP Review**, Prof. Robert Harris, June 11, 1994*

EMERGING COMPETITION - FIBER ROUTES

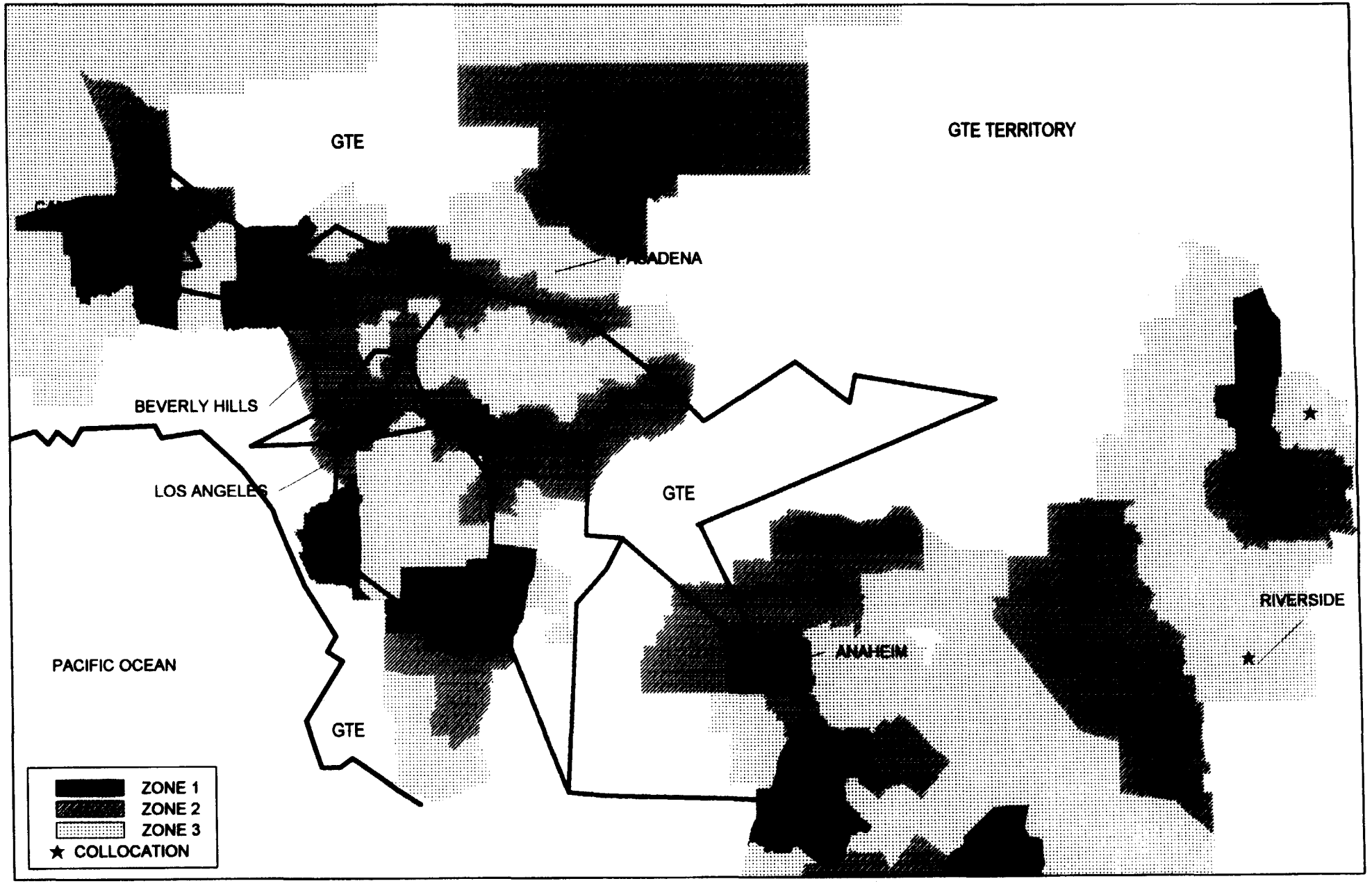


Horizontally Integrated Cable Companies Doing Business in California

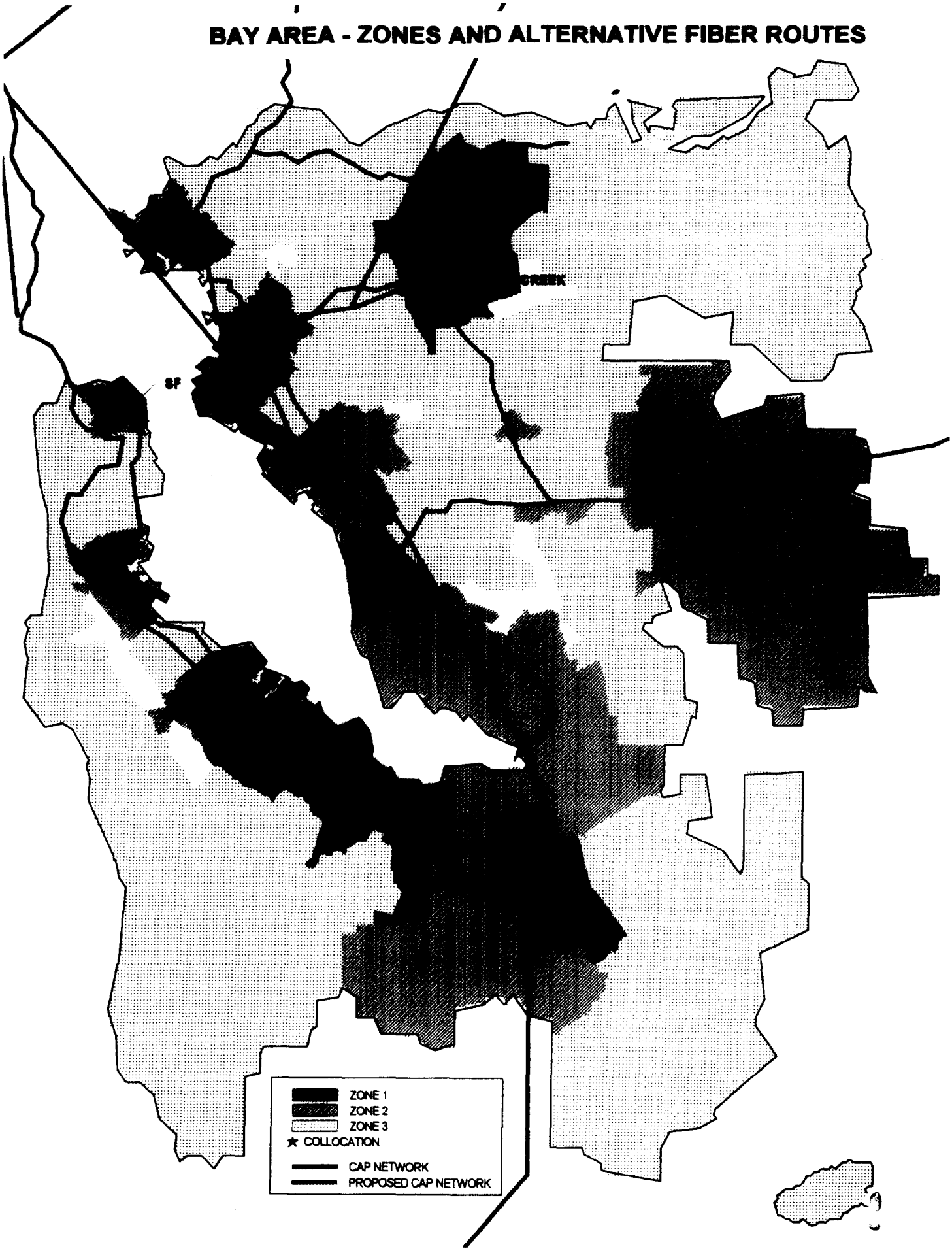
Cable Company	CAP Affiliation	PCS Trials/License Application	Owns Cellular Properties
TCI			
Continental Cablevision			
Time Warner			
Comcast			
Cox Cable			
Jones Intercable			
Cablevison Industries			
Viacom Cable			
Sammons Comm.			
Century Comm.			
TeleCable			
KBLCOM			
Cencom Cable			

Source: The Yankee Group, 1993

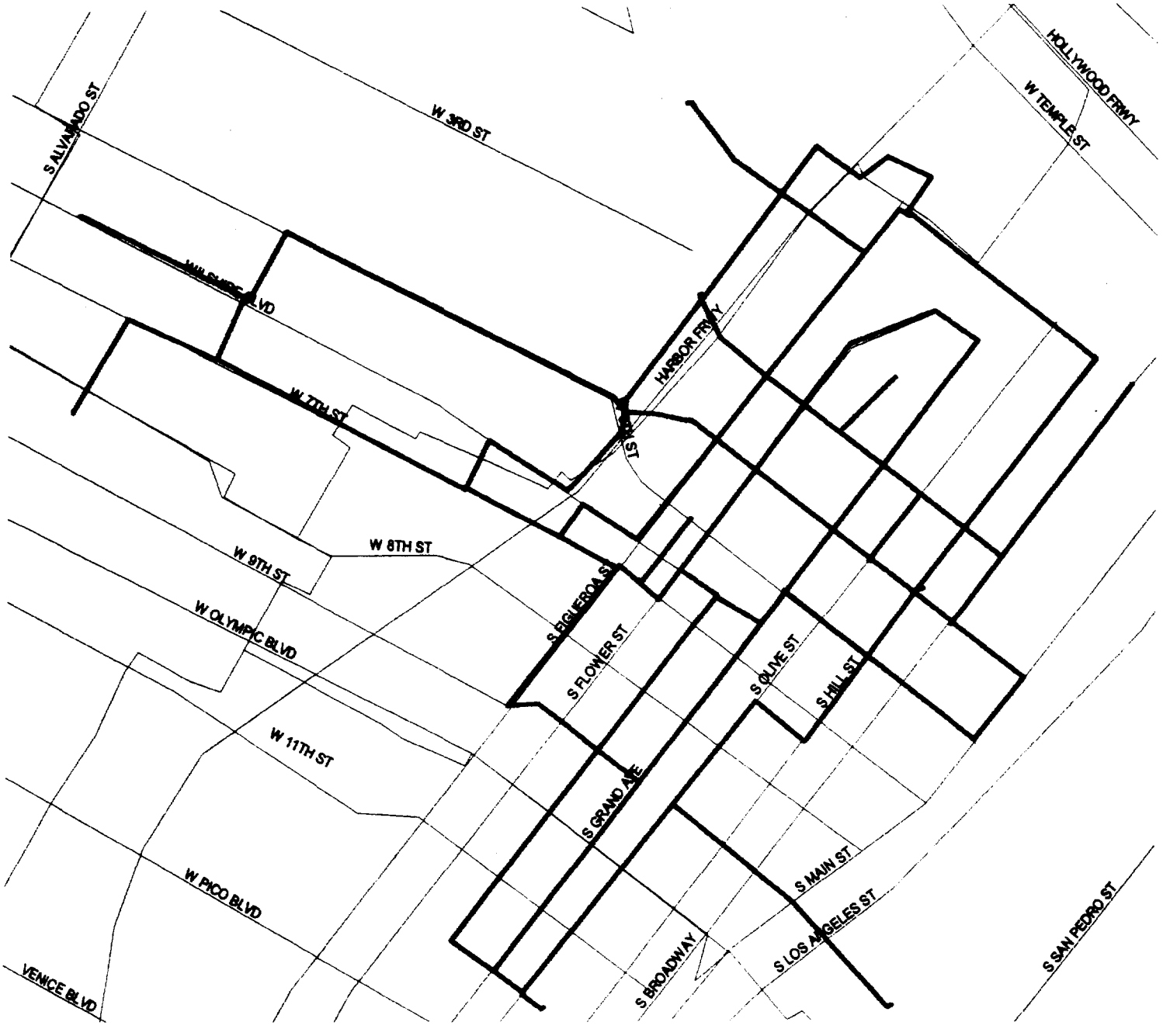
LOS ANGELES REGION - ZONES & ALTERNATIVE FIBER ROUTES



BAY AREA - ZONES AND ALTERNATIVE FIBER ROUTES



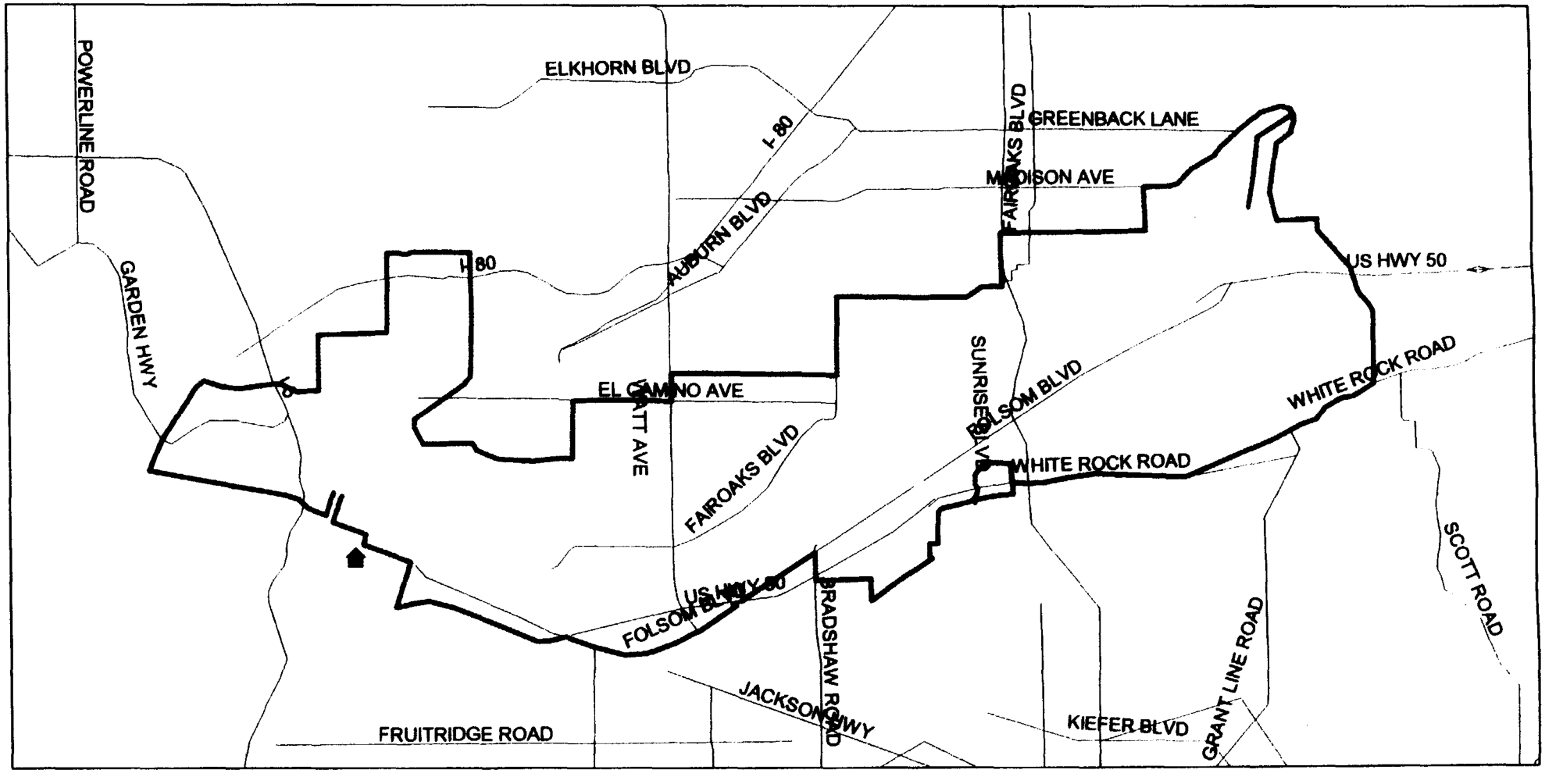
CAP NETWORKS
DOWNTOWN LOS ANGELES



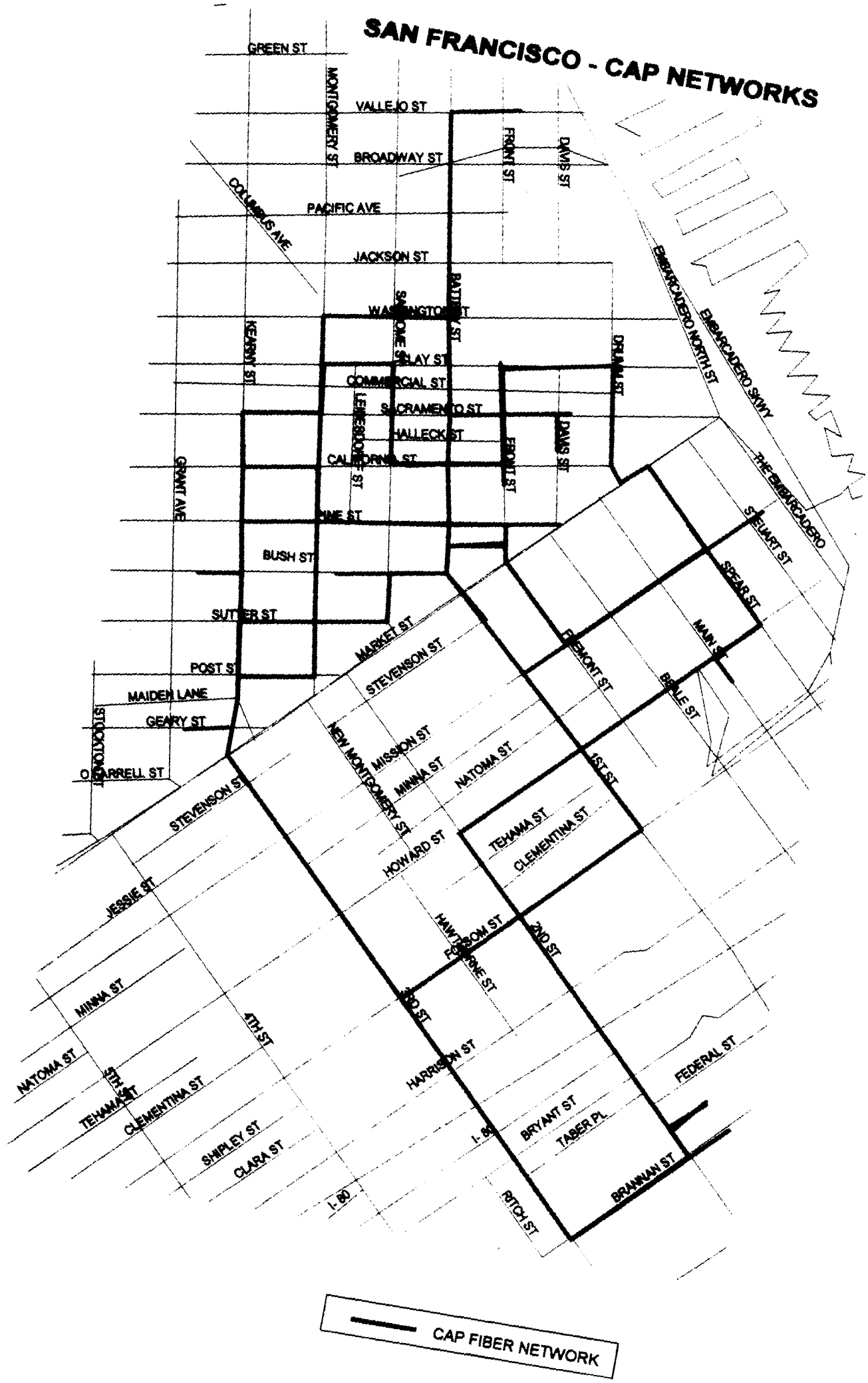
CAP FIBER NETWORK

SILICON VALLEY - CAP NETWORKS
(SAN JOSE AREA)

CAP NETWORKS
SACRAMENTO



SAN FRANCISCO - CAP NETWORKS



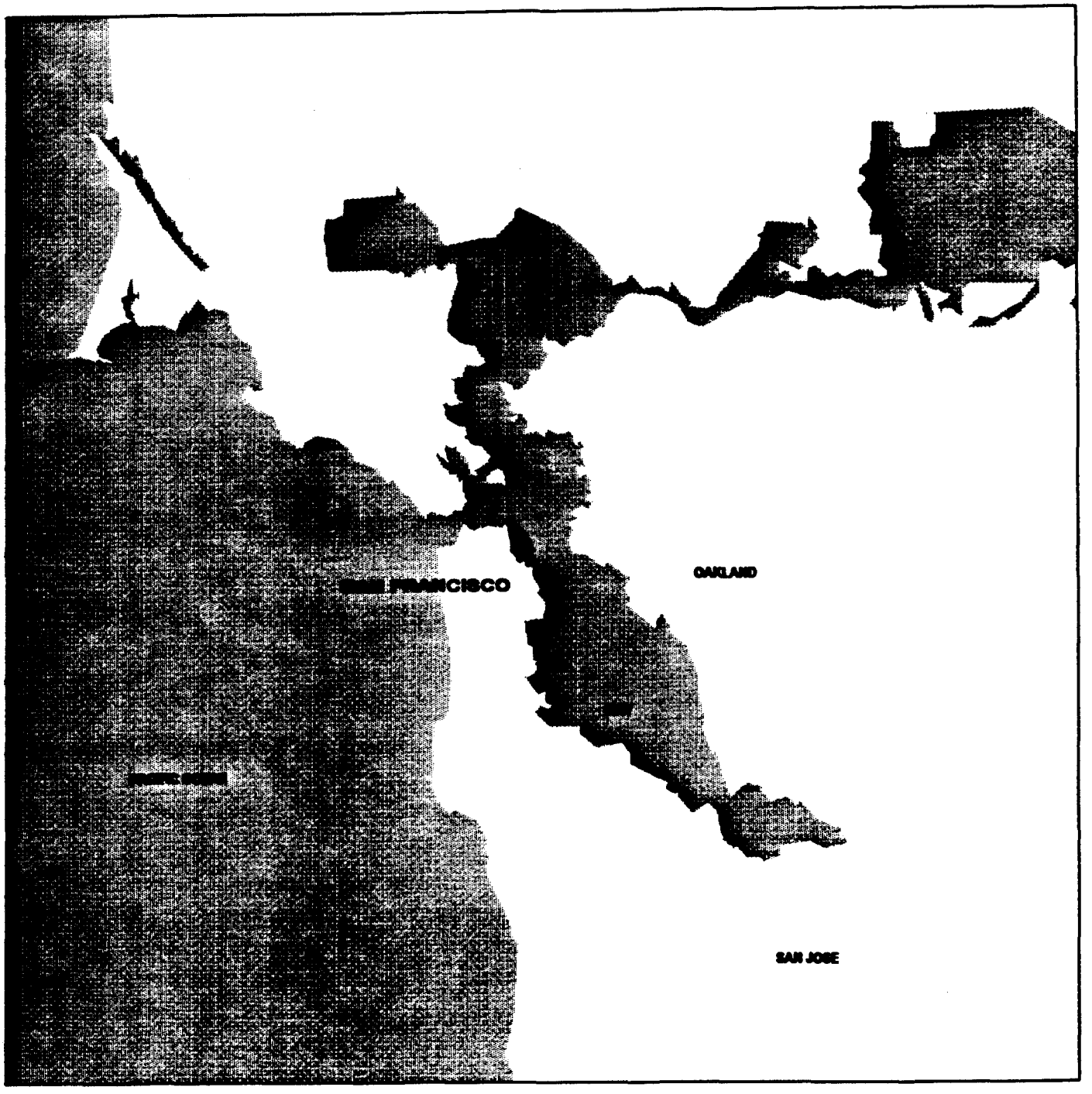
CAP FIBER NETWORK

Competitive Market Area Demonstration

The following is a sample application of USTA's proposal for a Competitive Market Area showing. Using the assumptions listed below, we determined that over 90% of Pacific's switched and special access demand was addressable by the existing CAP network in the two wire centers studied.

- The relevant markets used in the study were two Pacific Bell wire centers in downtown San Francisco
- The study assumed that customers within 1000 ft. of a CAP network had an alternative to Pacific Bell, and were therefore **addressable** by the competitior
- If a customer was addressable by a competitor, then all that customer's traffic was addressable
- In this study, residence customers were not assumed to be potential CAP customers

SAN FRANCISCO BAY AREA - CALIFORNIA



WIRE CENTER - SNFCCA01
WITH ADDRESSABLE AREA

● BLDG ACCESSED BY COMPETITOR

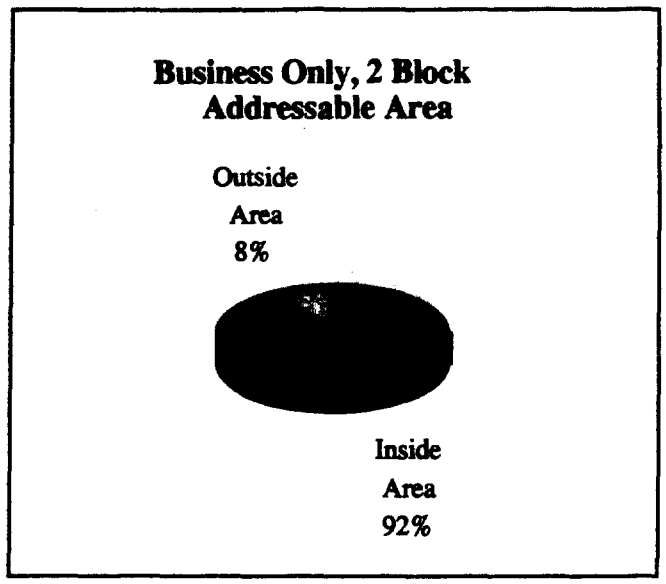
CAP FIBER

ADDRESSABLE AREA

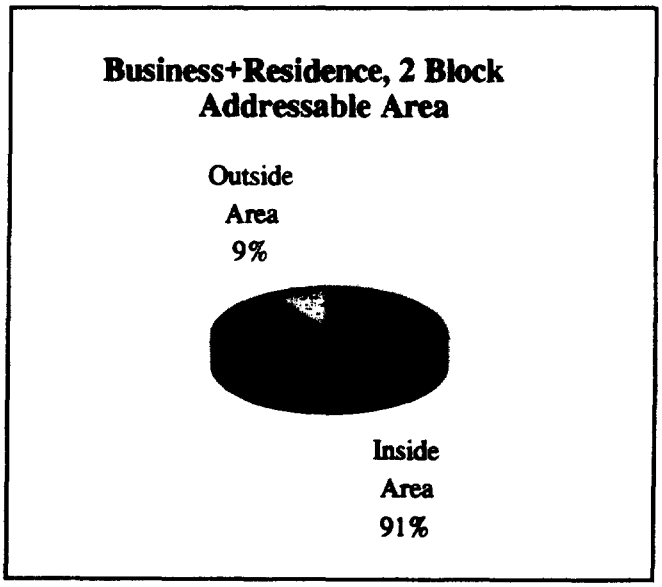
PREPARED BY MARKET INTELLIGENCE GROUP

DONB1B 10494S

Wirecenter - SNFCCA01

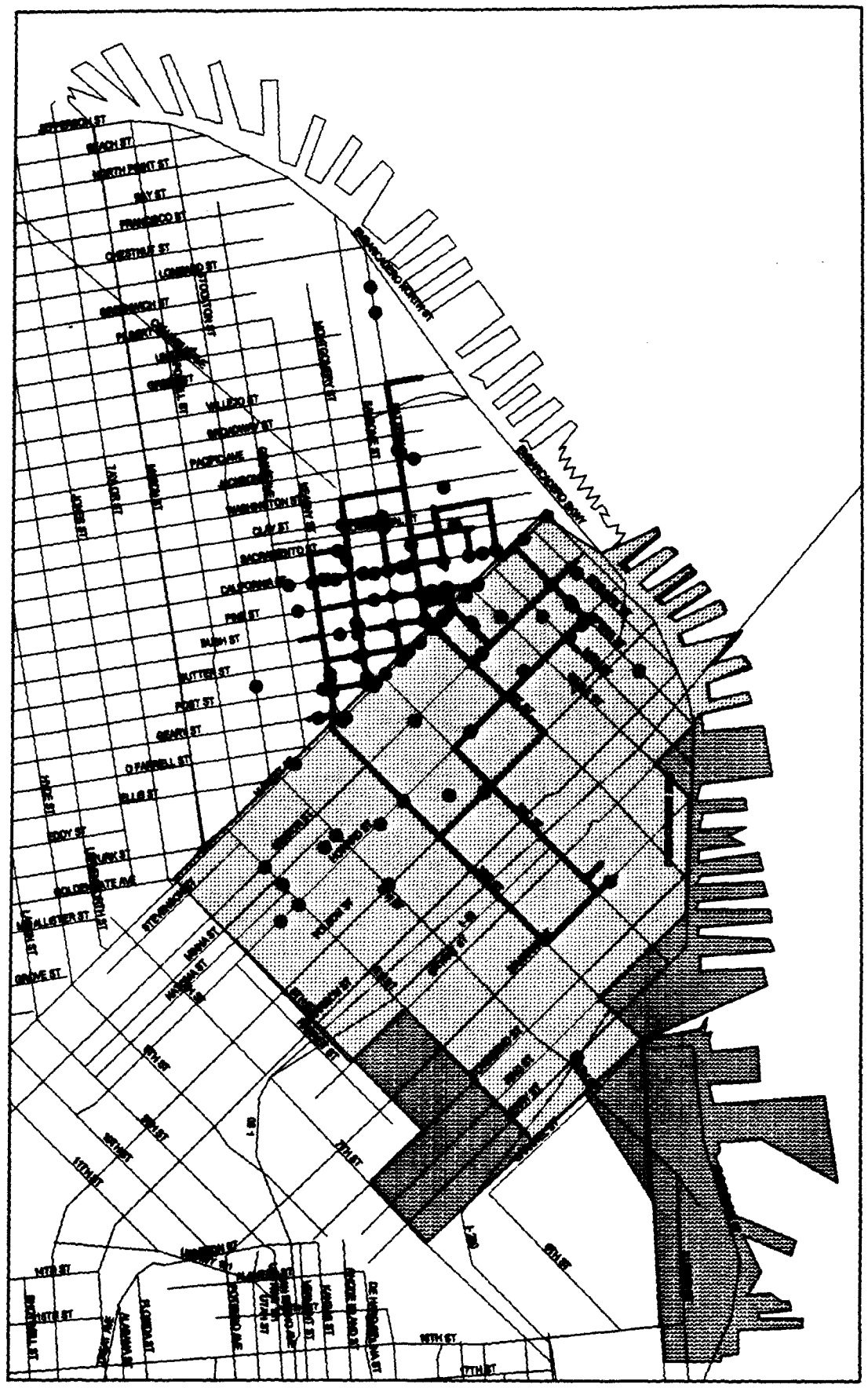


$$\text{\% DS1 Equivalents Addressable by CAP} = \frac{\text{In Addressable Area (Switched Access + Special Access)}}{\text{Entire Wire Center (Switched Access + Special Access)}}$$



$$\text{\% DS1 Equivalents Addressable by CAP} = \frac{\text{In Addressable Area (Switched Access + Special Access)}}{\text{Entire Wire Center (Switched Access + Special Access + All Residence Switched Access)}}$$

WIRE CENTER - SNFCCA21
WITH ADDRESSABLE AREA



● BLDG ACCESS BY COMPETITOR

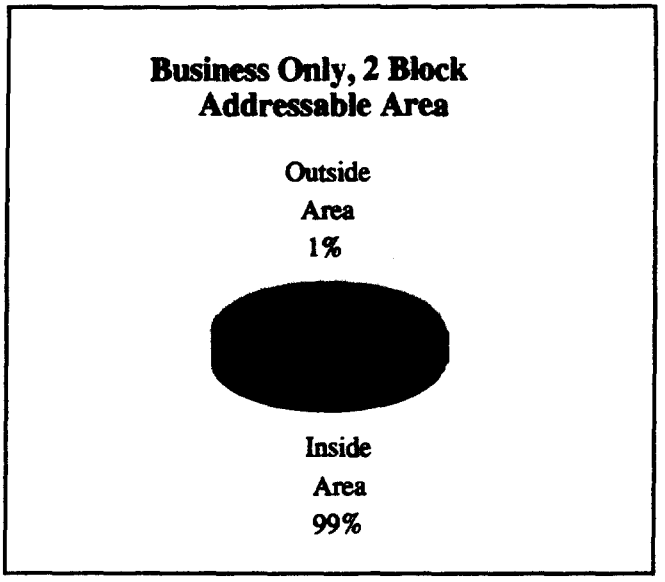
CAP FIBER

ADDRESSABLE AREA

PREPARED BY MARKET INTELLIGENCE GROUP

DONB21B 10494S

Wirecenter - SNFCCA21



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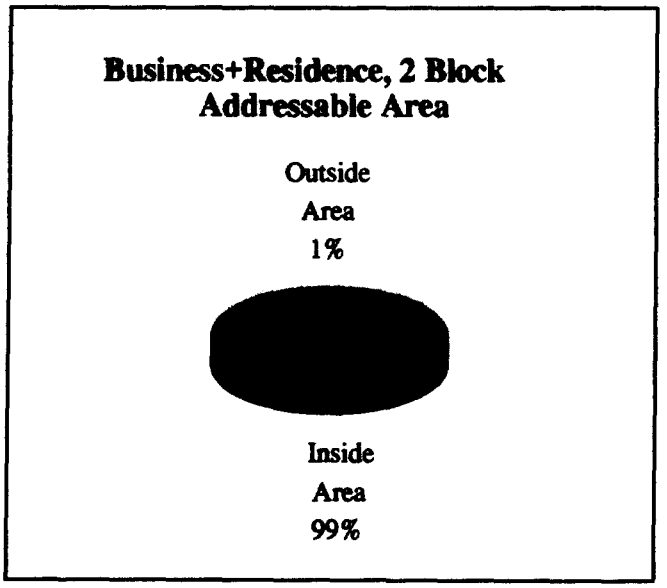
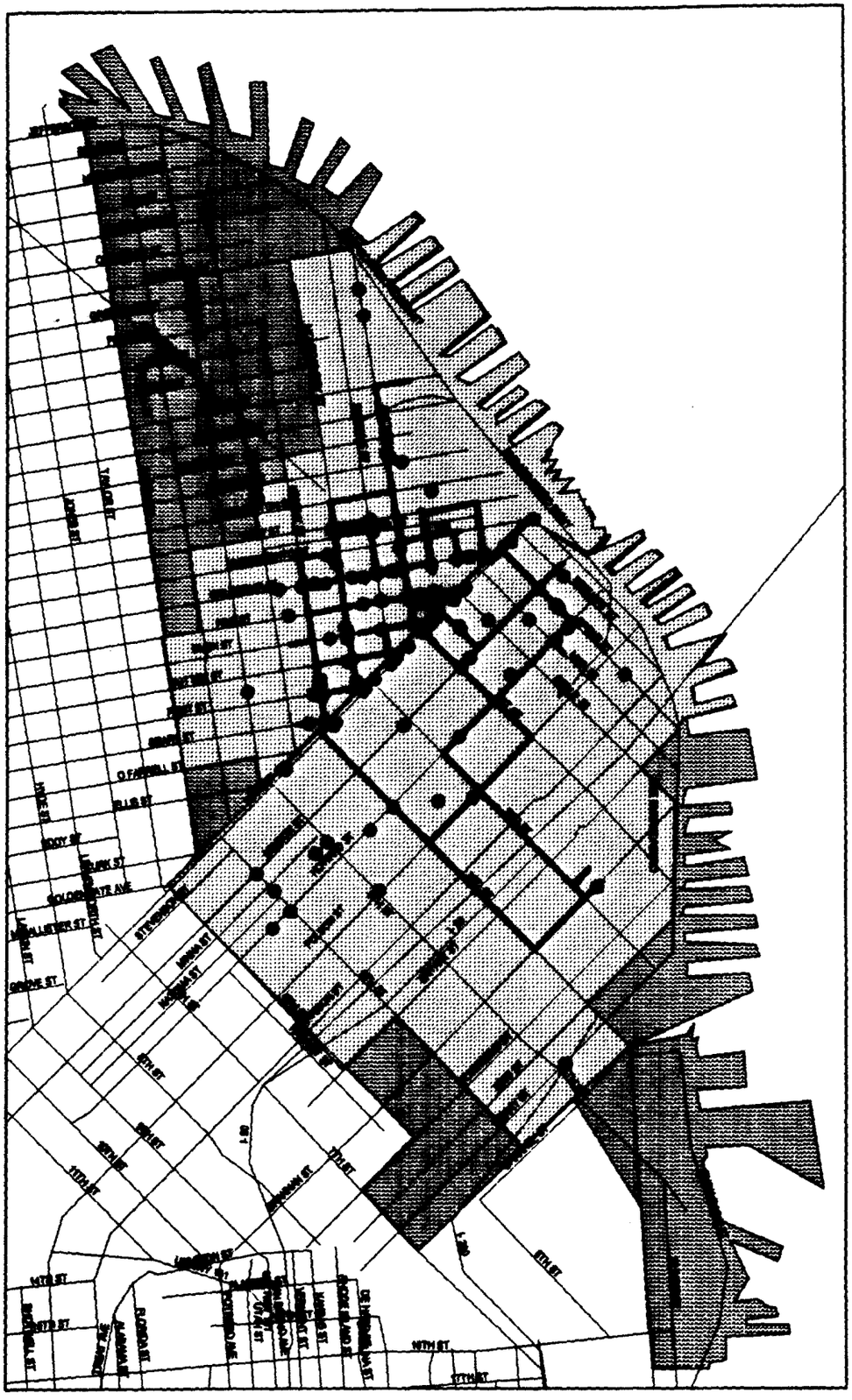


$$\text{\% DS1 Equivalents Addressable by CAP} = \frac{\text{In Addressable Area (Switched Access + Special Access)}}{\text{Entire Wire Center (Switched Access + Special Access + All Residence Switched Access)}}$$

WIRE CENTERS - SNFCCA01 & 21 COMBINED WITH ADDRESSABLE AREA



● BLDG ACCESSED BY COMPETITOR

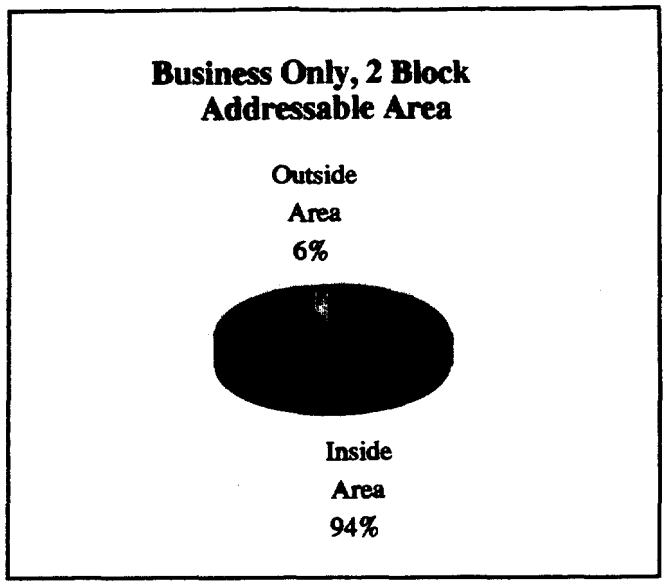
CAP FIBER

ADDRESSABLE AREA

PREPARED BY MARKET INTELLIGENCE GROUP

DONBB 10494S

Wirecenters - SNFCCA01 & 21 Combined



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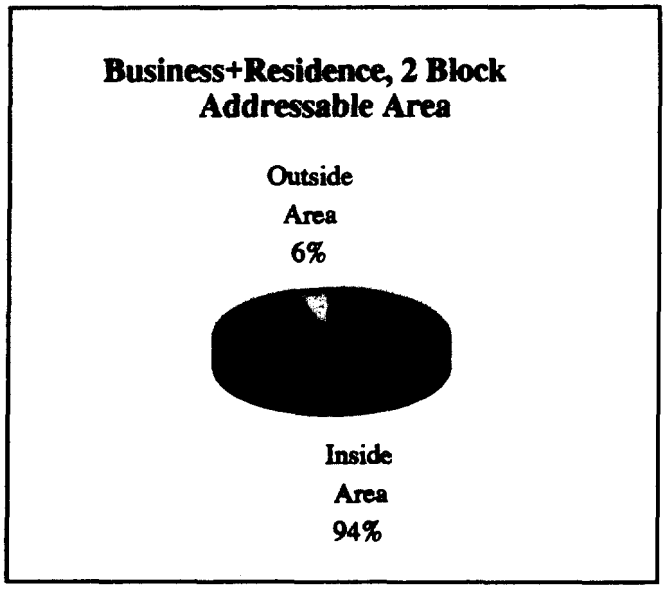

$$\text{\% DS1 Equivalents Addressable by CAP} = \frac{\text{In Addressable Area (Switched Access + Special Access)}}{\text{Entire Wire Center (Switched Access + Special Access + All Residence Switched Access)}}$$

CONCLUSIONS

- **Regulatory relief is needed now.**
- **An economically sound price cap mechanism should be adopted:**
  - ◊ No backstop mechanism
  - ◊ Reasonable productivity target
  - ◊ Limited exogenous costs
- **The degree of regulation should complement the level of competition in a relevant market.**
- **Market power criteria -- not market share -- are the appropriate standards for determining a market's competitive potential.**
- **Market addressability and capacity measurements are the best indicators of competitive potential.**
- **Removal of competitive LEC wire centers from price cap regulation and allowing contract-based tariffs will best foster robust, competitive markets and maximum consumer benefits.**

Appendix